

REMARKS

Claims 1-73, 75-95 and 101-108 are pending in the application.

Each of the independent claims has been amended to require that the liquid-expandable material "upon exposure to a liquid insult . . . to form essentially instantaneously a layer of material blocking said pores." Support for this amendment is found at page 9, line 15-17, of the specification and in Claims 19, 50 and 82.

All claims are rejected as anticipated by or, in the alternative, obvious over Ciammaichella, et al. U.S. 6,436,508, while Claims 1-33 and 101-103 are rejected as anticipated by or, in the alternative, obvious over Gegelys U.S. 4,643,726. The rejection based upon McCormack, et al. is withdrawn.

CIAMMAICHELLA

Ciammaichella is directed to an absorbent article comprising a liquid pervious top sheet, a backsheet and an absorbent core therebetween (see Claims). The backsheet comprises an air permeable layer such as an apertured film or fibrous layer, which is coated with a liquid swellable material, that, upon contact with fluid discharge, swells and closes the apertures of the air permeable layer of the backsheet, thereby reducing air permeability and preventing the passage of liquid through the layer and thus through the backsheet onto the garment of the wearer of the article (see Abstract). Because the backsheet treated with the swellable material is protected from the full surge of a liquid insult, first, by the top sheet, and, second, by the absorbent core, there is no need for the

swellable material of Ciammaichella to swell essentially instantaneously. Rather the backsheet receives the liquid insult only relatively slowly and only after the major portion thereof has been absorbed by the absorbent core. It receives only slowly the excess liquid, beyond the capacity of the absorbent core, as it gradually leaks through the absorbent core onto the backsheet.

Accordingly, Ciammaichella defines the term "wet" and the methods for testing the same with great particularity in col. 11, lines 1-8. Two features are notable. First, "the excess water is removed by gently pressing samples on blotting paper." Second, "the same is left to stand for at least 60 seconds before the test is carried out, the test being carried out within 10 minutes after contacting with water." Thus the backsheet is subjected to only a limited quantity of a liquid insult (that is, what remains after the excess water is removed by blotting). And the test is carried out between 60 seconds and 10 minutes "after contacting with water" - - that is, after the liquid insult. For the absorbent article which is the subject of Ciammaichella, and in particular the backsheet thereof, this may be an appropriate test.

However, such a test is not acceptable for a barrier sheet which will receive the full brunt of a liquid insult - - that is, the full quantity of the liquid insult in a single instant. For example, a surgical gown made of such a barrier sheet would be totally unacceptable on a commercial basis because it requires only an instant for a spurt of HIV infected blood to pass through the surgical gown and contaminate the surgeon.

Applicant refers the Examiner to one intended utility of the barrier sheet of the present invention "as a surgical drape or gown" (page 1, line 19; page 2, line 8; page 18, line 29).

It is clear from the test described in the Ciammaichella specification that there is no consideration of the use of the Ciammaichella material in a surgical gown and that the testing performed on the Ciammaichella product cannot suggest utility for any application wherein "an essentially instantaneous" reaction is required to the liquid insult or where the liquid insult may be received at full strength (rather than only after being partially absorbed by and slowed down by an absorbent core between the liquid insult and the Ciammaichella material).

Succinctly put, Ciammaichella discloses an absorbent article whereas the present invention discloses a barrier sheet. The Ciammaichella absorbent article always has an absorbent core to mitigate, dissipate and slow the liquid insult, whereas Applicant's barrier sheet is effective against a liquid insult in its full strength and speed (e.g., in a surgical gown).

#### GEGELYS

Gegelys is concerned with the prevention of re-wet. Gegelys is not at all concerned with "increasing the liquid transmission resistance of said [barrier] sheet in the direction of and at the point of liquid insult," as required by Applicant's Claim 1. Gegelys is concerned only with increasing the liquid-transmission resistance of the

barrier sheet in the opposite direction of the liquid insult -- that is, with diminishing re-wet from the liquid insult. Nothing in Gegelys suggests that the barrier sheet will or could preclude wet-through by the liquid insult; indeed, there could be no re-wet in the absence of wet-through. To allow wet-through (in the direction of the liquid insult) while preventing re-wet (in a direction opposite that of the liquid insult) can be achieved most simply by Gegelys using an aperture size such that the blocking layer cannot "form essentially instantaneously a layer of material blocking said pores," as required by Applicant's claims.

The Examiner has acknowledge in paragraph 6 of the Office Action that "the apertures (element 26) are larger than the instantly claimed pores," but argues that "nothing in the instant claim language explicitly excludes larger apertures." Applicant respectfully submits that the language added by the amendments to the instant claims implicitly limits the size of Applicant's pores by requiring that the expandable material "form essentially instantaneously a layer of material blocking said pores." If the pores are too large, the blocking of the pores will not occur essentially instantaneously. Accordingly, Applicant respectfully submits that the amended claims do in fact require that the pores -- and this means all of the pores -- not be so large as to preclude essentially instantaneous blocking thereof.

In view of the above amendments and remarks, reconsideration of the rejection and allowance of all claims is respectfully requested.

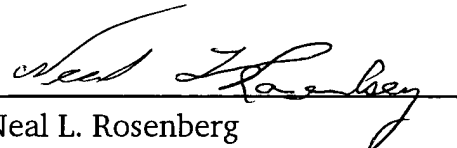
Appl. No. 10/086,532  
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If an extension of time is required to enable this document to be timely filed and there is no separate Request for Extension of Time, this document is to be construed as also constituting a Request for Extension of Time Under 37 C.F.R. §1.136(a) for a period of time sufficient to enable this document to be timely filed. Any fee required for such a Request for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§1.16 and 1.17 and not submitted herewith should be charged to the Deposit Account of the undersigned attorneys, Account No. 01-1785; any refund should be credited to the same account. One copy of this document is enclosed.

Respectfully submitted,

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